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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,534	09/13/2005	Hubert Hauser	263605US6PCT	9522

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
PARKER, FREDERICK JOHN

ART UNIT	PAPER NUMBER
1762	

NOTIFICATION DATE	DELIVERY MODE
07/17/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary	Application No.	Applicant(s)	
	10/518,534	HAUSER ET AL.	
	Examiner	Art Unit	
	Frederick J. Parker	1762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 May 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18-22,24-29 and 35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18-22,24-29 and 35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

1. The amendments in response to the 35 USC 112 rejections of the Previous Office Action are acknowledged and appreciated, and the Examiner withdraws the rejections.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 22 is vague and indefinite because it is unclear how the marking layer is configured for depositing itself, see line 2.

4. Previous prior art rejections are withdrawn and replaced by those which follow, by virtue of amendment.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 18,20,21,22,26-28,35 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dauba.

Dauba marks a glass pane (inherently "smooth") to identify the treatment temperatures it has undergone by applying a marking substance which changes an optical characteristic in response to the temperature treatment, the substance applied to a glaze ("marking field") on the pane. The marking (test identification (= "marking stamp", per claim 27, trademark, reference, etc) is applied by, e.g. screen printing, after a thermal toughening/ tempering step. The marking will irreversibly turn color (e.g. yellow to brown, and is therefore "thermochromic") if the coated pane undergoes the thermal treatment such as a "heat soak test" (col. 5, 9-25). The marking is indelible so there is no risk of marking removal during handling operations (col. 4, 14-38; col. 7, 25-34). The surface of the glaze which is marked inherently posses a coarser/ less smooth surface than glass; Dauba teaches marking only glazed surfaces, per claim 28. Thus the claims are anticipated by the reference.

Alternatively, the coating surface to which it is applied is not cited to have "uneven surface structure"; however, the film material to which the marking is applied results in the glass being "indelibly marked" (col. 3, 8) and "without risk of the ink being removed during handling operations". If there was no mechanical bonding/ penetration of the marking material, such markings would be readily removable. Thus, it is the Examiner's position that the marking material is applied to a film with sufficient porosity/ roughness to be suitable for imparting the indelible properties cited by the reference.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to carry out the method of Dauba on a film surface of sufficient structure to allow strong adherence to of the marking material to cause it to be "indelibly marked" and "without risk of the ink being removed during handling operations".

8. Claims 19,24-25,29 rejected under 35 U.S.C. 103(a) as being unpatentable over Dauba.

Dauba is cited for the same reasons previously discussed, which are incorporated herein. Per claim 29, Dauba teaches a temperature range of 270-330 C which overlaps the indictable temperature range of 180-340 C of claim 29. The subject matter as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made if the overlapping portion of the indictable temperature range disclosed by the reference were selected because overlapping ranges have been held to be a prima facie case of obviousness, see In re Wortheim 191 USPQ 90. Per claims 24-25, Dauba does not cite an uneven coating surface. However, since Dauba apply similar materials by the same method, e.g. screen printing, the final surface structure would also have been similar. Per claim 19, applying a glaze/ marking field prior to tempering treatment would have been obvious to allow simultaneous thermal treatment of the glaze and glass.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to carry out the method of Dauba by using the recited temperature ranges onto an adherent surface because such variations would have been within the purview of one of ordinary skill to achieve equivalent results.

Response to Arguments

Applicants arguments of 4/9/07 and 5/24/07 have been considered.

The Examiner reproduces the previous body of the rejection encompassing claim 23 in its original form:

Dauba is cited for the same reasons previously discussed, which are incorporated herein. Per claim 29, Dauba teaches a temperature range of 270-330 C which overlaps the indictable temperature range of 180-340 C of claim 29. The subject matter

as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made if the overlapping portion of the indictable temperature range disclosed by the reference were selected because overlapping ranges have been held to be a prima facie case of obviousness, see In re Wortheim 191 USPQ 90. Per claims 23-25, Dauba does not cite an uneven coating surface. However, since both Dauba and claim 23 apply similar materials by the same method, e.g. screen printing, the final surface structure would also have been similar. Per claim 19, applying a glaze/ marking field prior to tempering treatment would have been obvious to allow simultaneous thermal treatment of the glaze and glass.

Contrary to Applicants argument, nowhere in this rejection did the Examiner take Official Notice of anything. Thus Applicants' argument to this end is inaccurate and not persuasive.

Furthermore, it is well-established that the artisan is presumed to know something about the art apart from what the references disclose, In re Jacoby 135 USPQ 317; The conclusion of obviousness maybe made from "common sense" and "common knowledge" of the person of ordinary skill, In re Bozek 163 USPQ 545. The gist of the Graham v. Deere test of obviousness further must take into account the level of one of ordinary skill. Thus, not only is there no instance of Official Notice but any position is either directly in or inferred by the reference, or so obvious as to be within the purview of one of ordinary skill, with reasoning why being provided. The Examiner has therefore met his burden of proof.

Applicants additional assertion that "each of the remaining dependant claims also contain limitations not shown by the prior art of record" is a non-specific opinion, to which the Examiner cannot provide a reasonable response except to disagree. The Examiner had made specific rejections to which it is noted the Applicant was unable to specifically point out the faults in either of the Responses submitted. Thus, the rejections are maintained.

Contrary to Applicants allegation, the Examiner believes that claim 35 is either anticipated or obvious in view of Dauba; Applicants comment on page 9- bridging 10 was non-specific and hence cannot be given a specific reply.

Applicants arguments are not persuasive and the rejections are maintained.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick J. Parker whose telephone number is 571/ 272-1426. The examiner can normally be reached on Mon-Thur. 6:15am -3:45pm, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571/272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Frederick W. Parker
Primary Examiner
Art Unit 1762

fjp